

PETITION FOR SEXUAL ASSAULT AND NEGLIGENT SUPERVISION

COME NOW Plaintiff, Kathleen C. Trueman, and for her Petition for Sexual Assault and Negligent Supervision, states to the Court as follows:

GENERAL ALLEGATIONS

1. Plaintiff Kathleen C. Trueman is a resident of St. Louis, Missouri, residing within the Eastern District of Missouri.

2. Defendant Culver-Stockton College, now and at all times herein, is a religious and charitable association organized under Chapter 352 of the Revised Statutes of the State of Missouri, and can be served by and through its officers and trustees. Furthermore, Culver-Stockton College is located within the Eastern District of Missouri.

3. At all times mentioned herein, Defendant Austin Glen Beatty, is an adult and resides at 3848 Flad Avenue in the City of St. Louis and is a resident of the Eastern District of Missouri. Defendant Beatty was also a student at Culver-Stockton College at all times herein.

4. At all times mentioned herein, Lambda Chi Alpha Fraternity is a social organization maintaining a fraternity and facilities on the campus of Culver-Stockton College in the City of Canton, Missouri, and is a resident of the Eastern District of Missouri.

5. **Jurisdiction.** At all times mentioned herein, Culver-Stockton College was a private university subject to the requirements and mandates of Tit. 9 of the Education Amendments to the Civil Rights Act of 1972, which is the civil rights law that confer jurisdiction pursuant to the provisions of 20 U.S.C., §1681, et seq.

6. **Venue.** Inasmuch as all parties are residents of the Eastern District of Missouri, this court has appropriate venue within the meaning of T. 28 U.S.C., §1391.

7. On or about February 8, 2014, plaintiff, Kathleen C. Trueman, then 16 years of age, was invited to visit Culver-Stockton College by the Athletic Department of the college as a potential recruit for the women's soccer team.

8. Defendant Culver-Stockton's agents and employees had a duty and obligation to provide supervision and guidance to said minor invitee while she was on the campus, but they failed and neglected to provide said supervision, guidance and support.

9. At all times mentioned herein, Title IX of the Federal Civil Rights Statute, T.20, U.S.C., §1681, et seq. was in full force and effect and prohibited discrimination, sexual harassment or sexual violence at all public and private schools, colleges and universities.

10. In addition, the "Clery" Act, T.20 U.S.C., §1092(f) was also in full force and effect and established certain procedures for accepting and taking complaints of sexual violence, sexual attacks, or other discriminatory acts on public and private colleges and universities.

11. On or about February 8-9, 2014, while plaintiff was supposedly under the guidance and supervision of the Athletics Department of Culver-Stockton College, she was physically assaulted by defendant, Austin G. Beatty, on the premises of the Lambda Chi Alpha Fraternity house, of which defendant Beatty was then a member.

12. At all times herein, plaintiff Kathleen M. Trueman was a minor under the age of 17 years.

13. Plaintiff was subjected to overpowering physical and mental coercion accompanied by the serving of alcoholic beverages to a minor and social coercion and subjected to a sexual assault, thereby directly and proximately causing her to sustain the following permanent, progressive and painful injuries and damages:

A. Plaintiff received a substantial shock to her nervous system and was subjected to mental and emotional distress;

B. Plaintiff was subjected to substantial shock and embarrassment and the conduct of defendant Beatty aggravated a pre-existing depressive condition;

C. Plaintiff subsequently sought and obtained medical care and treatment and hospital services, as well as ongoing counseling and was required to expend funds for the same;

D. Plaintiff's relationship with her friends and family was impaired and she was subjected to ridicule and threats;

E. Plaintiff sustained post traumatic stress and was damaged thereby;

F. Plaintiff's enjoyment of life was diminished and impaired.

14. Plaintiff and her family reported the incident to the authorities at Culver-Stockton College and the law enforcement officials in Canton, Missouri, but Defendant Culver Stockton failed and neglected to take any corrective action or to adequately investigate the matter.

15. Representatives of Culver-Stockton withdrew from a scheduled conference with Plaintiff and her parents when they discovered the nature of the complaint, rather than conduct an investigation, review all the issues and offer any necessary treatment or counseling to Plaintiff, consistent with the "Clery" Act.

16. As a direct and proximate result of said assault, Plaintiff sustained substantial mental and emotional distress and was required to expend funds for care and treatment, and she currently suffers from post-trauma syndrome and psychiatric overlay, as a result of the assault, and has been required to expend funds for mental care and treatment, and will be required to expend sums for the same in the future.

17. Defendant Lambda Chi Alpha Fraternity knew or what aware of its duty to supervise and provide control over the use of the premises of the Fraternity House, and to avoid providing alcoholic beverages to minors, but failed and neglected to do so, thereby contributing to the assault upon Plaintiff.

18. Defendant Culver-Stockton College knew or should have known of the propensity of college students to utilize alcohol and to become involved in assaultive behavior, and was aware of the need to provide guidance, supervision and control for the minor athletic invitees on its premises, but failed and neglected to do so.

19. That as a direct and proximate result of the combined failure of Culver-Stockton College and Lambda Chi Alpha Fraternity to supervise and provide guidance for the minor invitees on their premises, Plaintiff was assaulted and sustained injuries and damages, as set out herein.

COUNT I - VIOLATION OF TITLE 9

COMES NOW Plaintiff, Kathleen C. Trueman, and for her Petition for Violation of Title 9 of the Education Amendments to the Civil Rights Act, T.20 U.S.C., §1681, et seq., states to the Court as follows:

1. Plaintiff adopts and incorporates herein as though fully pled, paragraphs 1 through 19 of the General Allegations as similarly numbered paragraphs in Count I, with same legal force and effect as though fully set out herein.

20. The assault upon plaintiff on February 8-9, 2014, constitutes sexual harassment and sexual violence within the meaning of the proscription against the same under Title 9 of the Civil Rights Act, and confers separate rights in the nature of a statutory tort.

20. As a direct and proximate result of the sexual attack upon plaintiff, she sustained the injuries and damages aforesaid.

WHEREFORE, having fully pled, plaintiff prays damages against defendant Culver-Stockton College for violation of plaintiff's rights under Title 9 of the 1972 Amendments to the Civil Rights Act for damages in excess of \$75,000.00, and for such other sums as are fair and reasonable.

COUNT II - ASSAULT CLAIMS AGAINST AUSTIN G. BEATTY AND LAMBDA CHI ALPHA FRATERNITY

COMES NOW Plaintiff, Kathleen C. Trueman, a Minor, and for her Petition for Sexual Assault against defendants Austin G. Beatty and Lambda Chi Alpha Fraternity, states to the Court as follows:

1. Plaintiff adopts and incorporates herein as though fully pled, paragraphs 1 through 19 of the General Allegations as similarly numbered paragraphs in Count II, with same legal force and effect as though fully setout herein.

20. At all times mentioned herein, Lambda Chi Alpha Fraternity maintained a "house" on the premises of Culver-Stockton College and provided alcoholic beverages to

the attendees, many of whom were minors, and in some cases were under the age of 17 years, such as plaintiff herein, who was then a minor.

21. At all times mentioned herein, Austin G. Beatty engaged in coercive sexual assault against plaintiff Trueman and thereby subjected her to substantial mental and physical aggression, thereby directly and proximately inflicting mental and emotional distress and damages on minor plaintiff and her family.

22. Lambda Chi Alpha Fraternity house had a duty and obligation to its members and to invitees and guests, to provide appropriate supervision of the conduct of its members and invitees, but failed and neglected to do so.

23. As a direct and proximate result of the physical assault by defendant Beatty upon minor plaintiff Trueman, and the combined negligence of defendant Fraternity, in conjunction with the negligence of Culver Stockton College in failing to supervise the conduct of the members, and the conduct of Fraternity member defendant Beatty, plaintiff sustained permanent, progressive and painful mental and emotional distress and damages.

WHEREFORE, having fully pled, plaintiff prays damages against defendant Austin G. Beatty and Lambda Chi Alpha Fraternity for the assaultive behavior directed against plaintiff, for sums in excess of \$75,000.00, and for such other sums as are fair and reasonable.

COUNT III - NEGLIGENT AND CARELESS SUPERVISION - LAMBDA CHI ALPHA FRATERNITY

COMES NOW Plaintiff, Kathleen C. Trueman, and for her Petition for Negligent and Careless Supervision against defendants Lambda Chi Alpha Fraternity, states to the Court as follows:

1. Plaintiff adopts and incorporates herein as though fully pled, paragraphs 1 through 19 of the General Allegations as similarly numbered paragraphs in Count III, with same legal force and effect as though fully setout herein.

20. Defendant Lambda Chi Alpha Fraternity knew or should have known that the members of the fraternity and college student invitees would be prone to use alcoholic beverages and other substances, and to engage in conduct that would cause harm to others, including plaintiff herein, but said defendant failed and neglected to provide reasonable supervision.

21. At all times mentioned herein, defendant Austin G. Beatty was a member of defendant fraternity.

22. Defendant fraternity had a duty to supervise the activities of its members and invitees when they knew or should have known that the risk of harm to invitees and others on the property, but failed and neglected to do so, and as a direct and proximate result thereof, plaintiff sustained the aforesaid mental and emotional distress injuries and damages.

WHEREFORE, having fully pled, plaintiff prays damages against defendant Lambda Chi Alpha Fraternity and defendant Austin G. Beatty for the assaultive behavior directed against plaintiff, for sums in excess of \$75,000.00, and for such other sums as are fair and reasonable.

Respectfully submitted,

MARTIN, MALEC & LEOPOLD, P.C.

/s/ James M. Martin

James M. Martin, USDC Bar #3754

1007 Olive Street, 5th Floor

St. Louis, MO 63101

(314) 231-3323

(314) 231-6739 - fax

jmartin@mmlawyers.com

mml@mmlawyers.com

Counsel for Plaintiff Kathleen C. Trueman

CERTIFICATE OF ELECTRONIC/ECF FILING

I certify that the foregoing was mailed this 8th day of February, 2016, through the Federal Court electronic filing system.

/s/ James M. Martin